

## ADEQ Briefings on Rule Developments

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The actions and dates in this newsletter are subject to change. Please note that neither this newsletter nor the ADEQ Web site is a substitute for the Arizona Administrative Register, which is the official notice for all rulemaking actions and substantive policy statements.

Persons wishing to follow ADEQ rulemaking activity and substantive policy statements should review the Arizona Administrative Register.

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### AIR QUALITY DIVISION

#### NSPS/NESHAP/Acid Rain Update (18 A.A.C. 2, Art. 2, 3, 9, 11, and Appendix 2)

The ADEQ has proposed new and updated incorporations by reference of the following federal regulations in state rules through the July 1, 2006, Code of Federal Regulations: Acid Rain, New Source Performance Standards (NSPS), and National Emissions Standards for Hazardous Air Pollutants (NESHAP).

**Docket Opening:** 13 A.A.R. 312; Feb. 9, 2007

**Proposed Rulemaking:** 13 A.A.R. 1617; May 11, 2007

**Public Hearing:** June 11, 2007 in Phoenix

**Contact:** Diane Arnst (602) 771-2375

#### New Source Performance Standard (R18-2-903) for APS Cholla Generating Station (18 A.A.C. 2, Art. 9)

ADEQ is amending R18-2-903, Standards of Performance for Fossil-fueled Fired Steam Generators, to reflect proposed changes to compliance demonstration by Arizona Public Service at the Cholla generating station resulting from the addition of air pollution control equipment to the facility.

**Docket Opening:** 13 A.A.R. 312; Feb. 9, 2007

**Proposed Rulemaking:** 13 A.A.R. 3074; Sept. 7, 2007

**Public Hearing:** Was held on Oct. 9, 2007 in Phoenix

**Contact:** Diane Arnst (602) 771-2375

#### Article 7 Technical Amendments (18 A.A.C. 2, Art. 7)

ADEQ adopted amendments to a number of rules in Article 7 to correct several technical and typographical errors. This rulemaking includes the repeal of R18-2-718, Standards of Performance for Existing Kraft Pulp Mills, since there are no longer any operating sources of this sort in Arizona; the deletion of the reference to the now-defunct smelter at San Manuel; and the deletion of language in R18-2-729, Standards of Performance for Cotton Gins, which refers to language in

## AIR QUALITY DIVISION (con't)

R18-2-702, General Provisions, that is no longer applicable.

**Docket Opening:** [12 A.A.R. 2306](#); June 30, 2006

**Proposed Rulemaking:** [12 A.A.R. 4612](#); Nov. 13, 2006

**Public Hearing:** Jan. 9, 2007 in Phoenix

**GRRC Hearing:** June 5, 2007 in Phoenix

**Contact:** [Diane Arnst](#) (602) 771-2375

### Permit Fees (18 A.A.C. 2 Art. 3 and 5)

Effective Dec. 4, 2007, the Governor's Regulatory Review Council approved rules to revise its air quality permit fees. Each source applying for an individual permit is required to pay \$133.50 per hour ADEQ spends processing a permit, adjusted annually by the Consumer Price Index. A cap of \$25,000 applies to Class II Non-Title V Sources. Each source is also required to pay the actual cost of public notice publications and related public hearing expenses.

**Docket Opening:** [13 A.A.R. 2099](#); June 15, 2007

**Proposed Rulemaking:** [13 A.A.R. 3124](#); Sept. 14, 2007

**Public Hearing:** Oct. 18, 2007 in Phoenix

**GRRC Hearing:** Dec. 4, 2007 in Phoenix

**Final Rulemaking:** [13 A.A.C. 4379](#); Dec. 14, 2007

**Contact:** [Diane Arnst](#) (602) 771-2375

### Agricultural Best Management Practices (AgBMP) Interim Rule (18 A.A.C. 2 Art. 6)

On Sept. 25, 2007, the Governor's Agricultural Best Management Practices Committee revised its rule requiring that farmers reduce the particulate matter or dust pollution created by agriculture in Maricopa County. These initial rules established agricultural best management practices (BMPs) for the Phoenix nonattainment area to reduce emissions of PM10 (particulate matter 10 or less micrometers in aerodynamic diameter) from regulated agricultural activities. It required at least one BMP for each of three categories at commercial farms. SB1552 (2007), Section 20, authorized an interim rule exempt from full rulemaking procedures to revise this rule. The revised rule added 5 new BMPs and increased the number of BMPs required for each by category from one to at least two. The interim rule also expanded the geographic area subject to these requirements to include Area A in the Maricopa County in addition to the official PM10 Maricopa County nonattainment area subject to the initial rule. These new requirements must be met by Dec. 31, 2007. The interim rule became effective on Nov. 14, 2007, and was published on Dec. 7, 2007.

**Publication Date for Notice of Exempt Rulemaking:**

[13 A.A.R. 4326](#); Dec. 7, 2007

**Contact:** [Thomas Luch](#) (602) 771-4480

### CA Clean Car Standards (13 A.A.R. 4331)

Pursuant to a unanimous recommendation from the Governor's Climate Change Advisory Group, ADEQ is proposing to adopt rules implementing the California tailpipe emissions standards for Greenhouse Gases that increase fuel economy. More than a dozen other states have already done so, and other states that are members of the Western Climate Initiative have committed to doing so. Clean cars are already built and sold in Europe and Japan. These rules can be adopted by Arizona under Part 177 of the Clean Air Act, which allows other states to implement standards identical to California's, so long as EPA has granted CA a waiver from federal preemption. About 39% of Arizona's GHG emissions are from the transportation sector.

**Docket Opening:** [13 A.A.R. 4331](#); Dec. 7, 2007

**Contact:** [Steve Burr](#) (602) 771-4251

## TANK PROGRAMS DIVISION

### NFA/MNA Rule (18 A.A.C. 12, Art. 1, 2, and 9)

ADEQ has proposed rules that will allow a person who was eligible for the State Assurance Fund (SAF) to receive a no further action (NFA) letter once the source of contamination has been removed and a corrective action plan has been approved that includes monitored natural attenuation (MNA). After ADEQ issues the NFA letter, the Department will continue to monitor the groundwater until it meets the applicable clean up standards. ADEQ will use the MNA account to perform these corrective action activities. In addition, the proposed rule will create a process that will allow ADEQ to close certain LUST cases where there is an exceedance of the aquifer water quality standards (AWQS) without the need for institutional controls or costly cleanups but still be protective of public health. The proposed rule was published in the Arizona Administrative Register on Aug. 17, 2007. There were two public hearings on the proposed rules: Thursday, Sept. 17, 2007 in Phoenix; and Thursday, Sept. 20, 2007 in Tucson. The end of the public comment period occurred at 5 p.m. on Sept. 28, 2007. One set of written comments was submitted to ADEQ before the end of the public comment period. ADEQ sent the proposed rule to the Governor's Regulatory Review Council (GRRC) on Oct. 19, 2007. The rule was approved at the Dec. 4, 2007 GRRC Hearing.

**Docket Opening:** [12 A.A.R. 3570](#); Sept. 29, 2006

**Proposed Rulemaking:** [13 A.A.R. 2760](#); Aug. 10, 2007

**GRRC Hearing:** Dec. 4, 2007 in Phoenix

**Contact:** [Philip McNeely](#) (602) 771-7645

## WASTE PROGRAMS DIVISION

### Hazardous Waste Rule Amendments (2006) (18 A.A.C. 8, Art. 2)

ADEQ is considering amendments to the state's hazardous waste rules that incorporate the text of federal regulations. These latest amendments are expected to cover changes in the federal regulations beginning July 1, 2005 through at least June 30, 2006.

**Docket Opening:** 13 A.A.R. 1054; March 23, 2007

**Proposed Rulemaking:** 13 A.A.R. 3080; Sept. 7, 2007

**Public Hearing:** Oct. 9, 2007 in Phoenix

**Contact:** Mark Lewandowski (602) 771-2230

### WQARF Site Scoring Rule Amendments (18 A.A.C. 16, Art. 2)

ADEQ is considering amendments to the existing rule regarding the scoring of sites for placement on the Water Quality Assurance Revolving Fund (WQARF) Registry. The current site scoring rule incorporates by reference an eligibility and evaluation site scoring model that was established in October 1996. ADEQ plans to update the current rule (R18-16-202) with a new eligibility and evaluation site scoring model.

**Docket Opening:** 13 A.A.R. 1055; March 23, 2007

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### Special Waste/Petroleum Contaminated Soil (18 A.A.C. 13, Art. 13 and Art. 16)

ADEQ is considering amendments to the rules governing the management, treatment, storage, and disposal of special waste. Special waste is defined by A.R.S. § 49-852 as waste that contains petroleum contaminated soils and waste from shredding motor vehicles, and is currently regulated by two rules. The first, Title 18, Chapter 13, Art. 13, regulates registration, manifesting, and fees for both petroleum contaminated soils (PCS), and shredder residue, and provides best management practices (BMPs) for facilities shredding motor vehicles. The second, Title 18, Chapter 13, Art. 16, provides BMPs for handling PCS only. Although both rules address the handling of special waste, they were written at different times using different regulatory philosophies, often resulting in inconsistencies between the two rules. In some cases the rules did not envision numerous special waste handling scenarios which have since become issues that must be addressed in rule in order to provide clear direction for the safe and proper handling of special waste.

ADEQ proposes to combine Title 18, Chapter 13, Art. 13 (Special Waste) with Chapter 13, Art. 16 (Best Management Practices for Petroleum Contaminated Soil) into one rule as Title 18, Chapter 13, Art. 13 (Special

Waste). These revisions will rectify contradictions between the two original rules and existing rules and statute, and create a uniform and consistent regulatory structure for all special waste. Revisions will also provide clear direction on waste handling procedures previously not addressed.

Informal stakeholder meetings were held to discuss ADEQ's preliminary draft of the rules on Nov. 4, 2005, Dec. 9, 2005, Jan. 19, 2006 and Jan. 23, 2006. Subsequent meetings will be scheduled as needed.

**Docket Opening:** 13 A.A.R. 1280; April 6, 2007

**Contact:** Mindi Cross (602) 771-4418

### Integrated Solid Waste Regulatory Framework (18 A.A.C. 13)

The purpose of this rulemaking is to establish a systematic and comprehensive framework for regulating solid waste facilities and solid waste streams in Arizona. This rulemaking will integrate and implement statutory provisions related to best management practices, self-certification requirements, plan approval procedures, financial assurance requirements, design and operation rules for solid waste facilities, and other topics. The types of facilities that may be affected by this rulemaking include landfills, treatment facilities, transfer facilities, on-site storage facilities, composting facilities and recycling facilities.

Draft rule text is now available and stakeholder workshops are scheduled. Information is available at <http://www.azdeq.gov/envIRON/waste/solid/integrated.html>.

**Docket Opening:** 13 A.A.R. 583; Feb. 23, 2007

**Contact:** Martha Seaman (602) 771-2221

### Engineering Controls/Financial Assurance Rules (18 A.A.C. 7, Art. 7)

A.R.S. § 49-152.01 establishes requirements for a property owner who elects to use an engineering control to meet requirements for cleaning up contaminated property. An engineering control is defined as a remediation method such as a barrier or cap that is used to prevent or minimize exposure to contaminants and that includes technologies that reduce the mobility or migration of contaminants. This new rule will provide details as to how to implement the provisions of A.R.S. § 49-152.01, which specify requirements for an engineering control plan and for financial assurance mechanisms that are intended to cover the costs of maintaining and restoring an engineering control. A draft rule is currently being evaluated internally.

**Docket Opening:** 13 A.A.R. 1144; March 30, 2007

**Contact:** Ren Willis-Frances (602) 771-4109

## WATER QUALITY DIVISION

### Safe Drinking Water

#### Incorporation by Reference (18 A.A.C. 4)

The primary purpose of this rulemaking is to incorporate EPA's safe drinking water regulations by reference. The rulemaking will update Arizona's safe drinking water rules by incorporating the rule amendments that EPA has adopted since the department last updated its safe drinking water rules, and facilitate future updates to the department's safe drinking water rules.

**Docket Opening:** [13 A.A.R. 2688](#); Aug. 3, 2007

**Contact:** [Sean McCabe](#) (602) 771-4600

### Surface Water Quality Standards (18 A.A.C. 11, Art. 1)

ADEQ proposes to update the Surface Water Quality Standards rules by amending definitions; clarifying the applicability of the water quality standards rules; modifying designated uses; proposing new antidegradation implementation procedures; adopting new narrative water quality standards including a new narrative biocriterion; propose new numeric water quality criteria to protect human health; adopting new or revised water quality criteria for suspended sediment in surface waters; classifying new effluent dependent waters (EDWs); adopting numeric water quality criteria for total ammonia to maintain and protect water quality for aquatic life in EDWs; amending Appendix A by updating the water quality criteria to protect human health and aquatic life; and amending Appendix B by modifying the designated uses listed for surface waters.

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### Aquifer Water Quality Standards (18 A.A.C. 11, Art. 4)

This Article establishes aquifer water quality standards. These standards apply to facilities licensed under the

Aquifer Protection Permit (APP) program, which discharge pollutants to groundwater and guides remedial and corrective actions by various Department programs, such as Water Quality Assurance Revolving Fund (WQARF), Underground Storage Tank (UST) and Comprehensive Environmental Response Compensation and Liability Act (CERCLA).

The rulemaking will adjust aquifer water quality standards for uranium, arsenic and disinfection byproducts to be consistent with the new federal primary drinking water standards adopted by the Environmental Protection Agency (EPA) as required by A.R.S. § 49-223(A).

**Docket Opening:** [13 A.A.R. 2689](#); Aug. 3, 2007

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### Impaired Water Identification (18 A.A.C. 11, Art. 6)

ADEQ proposes to update the Impaired Water Identification rules to update methods for impaired water identification and 303(d) listings to be consistent with 2006 federal assessment and 303(d) listing guidance.

**Contact:** [Shirley Conard](#) (602) 771-4632

### Public Water Systems Engineering Review Fees (18 A.A.C. 14, Art. 2)

Pursuant to 18 A.A.C. 5, Article 5, Minimum Design Criteria, ADEQ prescribes minimum design standards for public water systems, and reviews plans and specifications for the systems. The purpose of this rulemaking is to establish, by administrative rule, fees for performing technical reviews of plans for public water systems. ADEQ has a statutory responsibility to review plans for these facilities and to assess fees for its reviews. A.R.S. § 49-353(A).

**Docket Opening:** [13 A.A.R. 2690](#); Aug. 3, 2007

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